

JUDICIAL MERIT SELECTION COMMISSION
Sworn Statement to be included in Transcript of Public Hearings

Family Court
(New Candidate)

Full Name: Sean Fredrick Keefer

Business Address: 1643B Savannah Highway Suite 226 Charleston SC
29407

Business Telephone: 843-364-3341

1. Why do you want to serve as a Family Court Judge?

During high school, I worked at a law firm in my small hometown. I would often drive the attorneys to court as part of my responsibilities. On one of these occasions I was able to observe a contested matter in the Family Court. As I have looked back later in life, I believe there were two things about this hearing that had a lasting impact upon me.

The first was how the attorney I had driven to the court advocated for her client and prevailed at the hearing.

The second was how the judge masterfully handled a very heated matter, showed an even temperament to both litigants and their counsel, was respectful in his demeanor and decisive in his ruling, even as one party was found in contempt.

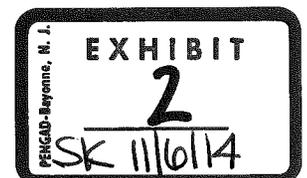
Many events and individuals played a part in helping to make me the attorney I am today, but I believe my path to a career in law started on that day during high school.

When I first considered seeking the position of Family Court Judge, I found myself thinking about that same hearing once again.

Through my career I worked to establish a reputation as an ethical, honest, and reasonable attorney; someone who would work hard to advocate for his client's best interest. I always endeavor to keep in mind that legal concepts familiar to me are likely new and sometimes alien concepts for a client.

As I began to shift from a practice focused on litigation to a very full mediation practice, I gained a new perspective through working not to advocate for one client, but rather assisting both litigants reach a resolution. While my role as a mediator is always one of a neutral, I have learned that all too often parties, though it is their own dispute, really don't have a full understanding of the system or what may be happening to them. I have been honored to have assisted hundreds of parties through the years reach a resolution to their disputes through dispute resolution.

Being an attorney then using those skills to work as a mediator as well, I have a wide background of experience that I believe provides a firm foundation to transition to the Family Court bench.



I want to serve as a family court judge because the aggregate of my personal and professional experiences have lead me down a path that has given me the necessary tools, skills and desire to take what I believe is a logical next step to allow me to serve the people of South Carolina.

I believe the fashion in which my legal career has progressed puts me in the position of being able to transition to the position of Family Court Judge. From my career experience, as an attorney representing clients in virtually every type of action before numerous family courts in our state, by my work representing volunteer Guardians *ad Litem* to my work as a private Guardian *ad Litem* and my experience as a Family Court mediator, I have a unique set of skills that will translate into a Family Court Judge who will be knowledgeable, consistent, fair, impartial, and willing to make difficult decisions for the litigants who may appear before me.

2. Do you plan to serve your full term if elected?

If elected it is my intention to serve the entire term.

3. Do you have any plans to return to private practice one day?

In the event that I was elected to the Family Court bench and later left that position and was not ready to retire, I would likely return to private practice. During my time pursuing a position on the Family Court bench, I plan to remain in private practice and, should I not be successful in this process, I would also remain in private practice.

4. Have you met the statutory requirements for this position regarding age, residence, and years of practice?

I have met all of the statutory requirements.

5. What is your philosophy regarding *ex parte* communications? Are there circumstances under which you could envision *ex parte* communications being tolerated?

My philosophy is that *ex parte* communications should be avoided. That having been said, there are some limited instances in the Family Court where permissible *ex parte* communications may occur provided safeguards are observed. Such communications generally would fall in the arena of there being emergent issues that, for instance, dealt with immediate financial consequences, liquidation of assets or harm to children. While in such situations the *ex parte* communications may be appropriate, close scrutiny is necessary to determine if there may be some other more appropriate relief that does not involve the *ex parte* communications. If such *ex parte* communications are made, I also believe an appropriate and timely hearing should be afforded to the opposing side so as to allow an ultimate opportunity to be heard. Generally, where the law does not permit *ex parte* communications and actions, such communications are improper.

In the arena of *ex parte* communications I believe that special attention should be given in the case of *Pro Se* parties and their initiating such communications with the Court. While there are no circumstances where simply because a party is *Pro Se* such communications would be

appropriate, I believe there should be safeguards in place so in the event such contact occurs a judge would be prepared to address such communications to redirect the *Pro Se* litigant and provide a clear statement concerning the inability for a judge to communicate with the litigant directly without the participation of the other parties.

6. What is your philosophy on recusal, especially in situations in which lawyer-legislators, former associates, or law partners are to appear before you?

There is a balance between recusal and remaining in a case. I believe that the measure should be to avoid any appearance of impropriety in any judicial proceeding while not causing undue delay.

In exercising this balance, there are a variety of factors to consider. For instance, the nature of the hearing may dictate whether recusal is necessary or prudent. If the hearing was of a nature where the Court's decision was of limited scope - perhaps the granting of an uncontested divorce or the approval of an agreement reached by the parties - I believe that there could be a full disclosure, initiated by the Court, with each party having the right to be heard on the issue of recusal. If a party was to request recusal, it may be proper for the Judge to step aside for the case. If there was an agreement by the parties that recusal was not necessary, while I believe the decision would be entirely to the Judge, I believe remaining on the case could be proper.

If the matter was contested and was before the Court for hearing or trial where the ultimate decision on the merits or important issues was to be left to the Judge, I believe that the Judge should, on his or her own motion, address the matter and give strong consideration to recusal as the goal is to avoid even the appearance of impropriety. One key inquiry would always be the true nature of the relationship between the judge and the individual or subject matter, (e.g. former partners, lawyer-legislators, former associates, etc.) To avoid appearances of impropriety, any substantial relationship should be disclosed to the attorneys and litigants.

My concern is that while even the appearance of impropriety needs to be avoided, a judge should be mindful not to create such an appearance of concern where there is none and where the result could be perceived as the judge looking for a way to avoid certain cases or decisions. This I believe, where litigants have come to the Court for a decision, could potentially be as concerning as a Court not entertaining recusal where appropriate.

7. If you disclosed something that had the appearance of bias, but you believed it would not actually prejudice your impartiality, what deference would you give a party that requested your recusal? Would you grant such a motion?

I believe that again the delicate balance I addressed above should be applied. A full disclosure does not always equate to an automatic recusal. Were such a situation to arise, it would first be imperative to fully hear from

not only the party requesting the recusal, but also the opposing party. Just because one party seeks recusal does not mean it is proper. In any situation where a motion was made to the Court a decision would need to be made; however, I cannot now say what my decision would be as to do so would require me to provide a decision without the facts of the particular case before me. I would, after hearing from each party on the totality of the circumstances, rule in a fashion that was supported by facts and law and that also avoided the appearance of impropriety while considering the balance set out above.

8. How would you handle the appearance of impropriety because of the financial or social involvement of your spouse or a close relative?

I believe that a strong appearance of impropriety exists in such a situation. Unless the facts showed that the financial involvement was *de minimis*, I believe recusal, raised at any stage of the proceeding, would be warranted. Were the Judge not aware of the conflict at the outset it is likely that a recusal could cause a delay, but I believe that a delay is better than creating a situation where the merits of a case are overshadowed by a potential (and perhaps very personal) conflict with the judge in the case. If such a relationship exists, it could be difficult for a litigant, or even counsel, to believe the judge was not previously aware of the issue and influenced by it.

As to social involvements, I do not believe that social involvements would automatically rise to the same level as financial involvement with a spouse or relative; however, given the manner in which some individuals view interpersonal relationships, careful scrutiny would also be warranted. With minor connections, such as being members of the same health club facility, supporting the same charitable cause or being a member of same social organization, an inappropriate appearance (or real conflict) is likely to be present. However, if a spouse or relative was to serve or have served on a board, been involved in a close working fashion in a social function or other great capacity then I believe that conflict should be disclosed and all parties be given the right to be heard and a decision made under the totality of the facts.

9. What standards would you set for yourself regarding the acceptance of gifts or social hospitality?

As a member of the judiciary, I would be very cognizant of issues relating to the acceptance of gifts. I believe in this arena, as with others concerning judicial conduct, the appearance of the conduct and the conclusions drawn by others is as important for consideration as is the conduct itself.

Were there preexisting relationships with individuals or groups I would consider most gifts or social hospitality acceptable. However, this should not be taken to mean that I would not be cognizant of the potential impact or the perception of others. However, for an example, if neighbors with

whom I had a previous relationship and who would likely merit recusal were they to come before me while on the bench anyway, I would have less concern with gifts or social hospitality than I would with an attorney with whom I was familiar, but only professionally, who started appearing with gifts or offers of social hospitality.

I believe the standard in this particular area would be if there were any question as to such being appropriate, the best practice would be to politely refuse the gesture and, if warranted, seek an opinion on the conduct.

10. How would you handle a situation in which you became aware of misconduct of a lawyer or of a fellow judge?

I would discuss the conduct with the lawyer or judge and encourage them to self-report the matter. If they did not, I would do so. I hope that other judges and lawyers would take the same approach with me if the issue ever presented.

11. Are you affiliated with any political parties, boards or commissions that, if you were elected, would need to be evaluated?

I am a member of the SC Bar's Dispute Resolution Section. While I do not believe this would require evaluation, I do believe that if I was elected to the bench, as has occurred with other members in the past, I would step down from the Section leadership. However, other than this, there are no such boards, parties or commissions that would require evaluation.

12. Do you have any business activities that you would envision remaining involved with if elected to the bench?

In the past I have earned a small amount of income from the live performance of music, from writing works of fiction and from photography. I have stopped performing music in any live setting and have also stopped any commercial photography work. While I still enjoy these activities, there is no business component to my musical performance or photography. I still actively spend time writing and furthering my writing endeavors and would likely continue to do so in my spare time if elected.

13. Since family court judges do not have law clerks, how would you handle the drafting of orders?

I have come to understand that most judges of the Family Court give instructions to counsel upon which orders are drafted. I would continue this practice unless the matter could be addressed with a form order or was of such importance or complexity that I felt that I needed to draft an order myself. I would carefully review and, where appropriate, edit orders submitted to me to ensure they complied with my rulings.

14. If elected, what method would you use to ensure that you and your staff meet deadlines?

I believe that deadlines can be met through organization, diligence and planned review. When I was involved with the representation of Guardians *ad Litem*, for each day a docket was prepared and was shared by DSS, the Court and myself. I would obtain the docket in electronic form, add it to my

computer, keep a redundant paper copy and make sure that any deadlines were noted on both.

I would likely utilize a similar system if elected to the bench. It is a simple proposition to incorporate electronic reminders based upon parameters I, or my staff, would define which would be another tool to keep deadlines mindful. Between the electronic copy, the redundant hard copy and periodic reviews, an approach to address and manage deadlines would be easily implemented.

15. If elected, what specific actions or steps would you take to ensure that the guidelines of the Guardian Ad Litem statutes are followed during the pendency of a case?

Adherence to the Guardian *ad Litem* statutes begins with a properly drafted Order of Appointment that includes all of the necessary requirements, including, but not limited to Guardian duties, fees, billing, fee cap requirements and any particular work the Guardian *ad Litem* would be required to do. I would in all cases, where I had the opportunity, see that this was done according to the applicable statutes.

I have done a great deal of Guardian *ad Litem* work in private, DSS and DJJ cases including not only serving as a Guardian *ad Litem* but also representing Guardians. As a result of this, I am quite sensitive to the Guardian's role and involvement in the process and would ensure that all duties and obligations were fulfilled.

Review hearings, motion hearings related to children's issues, other hearings involving the Guardian, and even motions filed by Guardians, would all provide the opportunity to ensure compliance with the applicable statutes. At final hearings further attention would be given to the work the Guardian performed allowing the work to be addressed on a case-by-case basis. Even in cases resolved by agreement, I believe it is necessary to inquire not only of the Guardian as to his or her opinion of the case, but also of the parties to ensure there are no issues that need to be addressed with any Guardian's performance.

I would also let it be known that as to issues with the Guardian, be it issues being experienced by the Guardian, concerns of counsel or of the litigants, these issues could and should be brought before the Court if a resolution cannot be reached. I would emphasize that issues should be brought to the Court's attention and dealt with as soon as possible.

16. What is your philosophy on "judicial activism," and what effect should judges have in setting or promoting public policy?

My philosophy is that a judge's job is to apply the law as it presently exists and not to create or mold it as the judge may personally see fit. It is my belief that this is especially true at the trial level. If a novel issue was to be presented, then a decision should be based on the guidance that can be gleaned from existing law.

While judges are human and it is largely impossible to completely detach from personal beliefs and thoughts, the personal beliefs of the judge should be minimized when exercising judicial duties. I do not believe it proper for a judge to stray from the law based on personal belief or public opinion. Legal changes are for the people or the legislature.

17. Canon 4 allows a judge to engage in activities to improve the law, legal system, and administration of justice. What activities would you plan to undertake to further this improvement of the legal system?

Knowledge creates understanding. I believe that a sitting judge can provide a perspective that can assist in the improvement of the legal system as a whole.

I believe it would be beneficial and appropriate to work with the members of the Bar and of the community, through existing programs or in the formulation of new programs, designed to function as a platform to better the system as a whole. I believe consideration should be given to the mission statement of any group to which a judge was to become a member to, as addressed above, avoid the appearance of impropriety.

Overall, I believe that a judge should expect that a part of his duties would be to engage in appropriate activities that were designed to provide education to the members of the Bar, students of the law and the public as a whole to help foster a better Family Court process for all involved.

18. Do you feel that the pressure of serving as a judge would strain personal relationships (i.e. spouse, children, friends, or relatives)? How would you plan to address this?

My wife and I do not have children. My wife is also an attorney, making her aware of what would be required were I to be elected. We have addressed this topic previously and revisited it when I began the process of considering application for this position. I do not feel that familial pressure would be a factor in my serving as a judge.

19. Would you give any special considerations to a *pro se* litigant in family court?

I believe that with *Pro Se* litigants a member of the judiciary should expect that what is routine to an attorney will likely be alien and even intimidating to a *Pro Se* litigant. While I do not believe that any party, even a *Pro Se* party, would warrant preferential treatment, I do believe that a member of the judiciary, when dealing with a *Pro Se* party would be well within the bounds of the judge's duties and responsibilities to be patient, keep an even temperament and, when ruling, be mindful that even negative rulings can be communicated in an appropriate fashion.

During my years as a mediator and arbitrator, I have, and continue to deal with *Pro Se* litigants and have learned to be patient and considerate. I realize these parties do not have the understanding a member of the Bar would. The experience has given me a great deal of experience in dealing with *Pro Se* parties and in understanding the issues unique to such

situations. I would continue to exercise the same approach on the bench as I have in the past, endeavoring to ensure that, even if they were to receive a ruling contrary to their positions, that *Pro Se* litigants left feeling that they had been given an opportunity to be heard, had been heard and that the ruling was one that was not geared towards them as a solely result of appearing *Pro Se*. The patience and understanding a *Pro Se* litigant receives would not limit or change that they would be held to the same standards and rules as litigants who appear with counsel.

20. Are you involved in any active investments from which you derive additional income that might impair your appearance of impartiality?

No.

21. Would you hear a case where you or a member of your family held a *de minimis* financial interest in a party involved?

In most instances no. Also, given the nature of my family's investments I do not believe this would presently be an issue. Given that I cannot say what the future may hold, were a situation to arise and there was a case before me that fit this criteria, I would disclose the situation as soon as I became aware of it and would give all parties an opportunity to be heard. I believe, as I have addressed above, the nature of the hearing would dictate a large part of the result. Likely to avoid the appearance of impropriety, were all parties not willing to acknowledge and waive any issue, I would likely step aside. Were no objection exists to my hearing the matter, the *de minimis* nature of the interest would likely alleviate any conflict. As always, each will be evaluated based on the actual facts and circumstances.

22. Do you belong to any organizations that discriminate based on race, religion, or gender?

No.

23. Have you met the mandatory minimum hours requirement for continuing legal education courses?

I am current for the present reporting period and have hours that will carry forward to the next reporting period.

24. What percentage of your legal experience (including experience as a special appointed judge or referee) concerns the following areas? If you do not have experience in one of these areas, can you suggest how you would compensate for that particular area of practice?

- a. Divorce and equitable distribution: 35%
- b. Child custody: 35%
- c. Adoption: 5%
- d. Abuse and neglect: 20%
- e. Juvenile cases: 5%

Through my career I have handled virtually every type of case that could be handled and/or litigated in the Family Courts. I feel extremely confident in my ability to be able to preside over any issue in the Family Courts. I also acknowledge that in the totality of the cases routinely before

the Family Court cases involving juvenile criminal matters represents an area where I have not routinely practiced in a number of years. In an effort to better prepare me for such cases, during the past two years, I have routinely observed juvenile cases in the Family Court in an effort to better familiarize myself with the law, the process, how the Court interacts with litigants, defense counsel and solicitors. I have paid close attention to the manner in which different judges approach juvenile cases, how they treat different offenses, first time offenders, repeat offenders, how evaluations are done, when services are implemented, if home detention is warranted, at what level and other issues.

I believe that this effort has provided me a better insight into what occurs in the Family Court in juvenile criminal matters and how critical the approach of a judge can be in working to accomplish the goal of keeping first time offenders from becoming habitual offenders.

25. What do you feel is the appropriate demeanor for a judge?

Judges should be aware that their demeanors, and likely themselves personally, will frequently be the subject of scrutiny. Judges should also be mindful that they will regularly be called upon to make difficult decisions that may have lasting impact on litigants. I believe that a judge's demeanor can and does impact how rulings are perceived.

Accordingly, I believe the demeanor that would best allow a judge to perform his or her duties would occur when a judge was calm, attentive, patient, and courteous. I believe that a judge should avoid over familiarity with litigants and attorneys and to be ever mindful to maintain decorum and control in the Courtroom, but to do so in a respectful fashion.

I believe that judges should avoid becoming angry or letting their tempers get the best of them. There will be challenging and frustrating situations, but I firmly believe that a calm demeanor can be maintained. With such being the case, I believe it would allow a judge to maintain the decorum of the tribunal but to also be able to be firm and decisive where and when necessary.

26. Would the rules that you expressed in your previous answer apply only while you are on the bench or in chambers, or would these rules apply seven days a week, twenty-four hours a day?

The above answer addressed a judge's demeanor while physically on the bench. If a judge has a good demeanor on the bench and allows that demeanor to follow into everyday life off and away from the bench, I believe this would work to establish a firm foundation for how a judge should act when not on the bench or in chambers.

Judges are human and I do not believe simply because their professions may be that of judge all judges should live an existence of isolation. However, the removal of a robe does not mean an individual ceases to be a judge. A member of the judiciary should be ever mindful as

to how he or she will be perceived by the public. The actions of one member of the judiciary will reflect upon the bench as a whole.

27. Do you feel that it is ever appropriate to be angry with a member of the public who would appear before you, especially with a criminal defendant? Is anger ever appropriate in dealing with attorneys or a pro se litigant?

Anger, among other emotions, can be displayed and expressed in a variety of fashions. It is possible to be angry with someone and the other party never be aware of such. I believe that it would inappropriate for a member of the judiciary to expressly tell a member of the public, criminal defendant or not, appearing before a judge that the judge was angry with them.

If there is anger, there should, unless it is unwarranted, be some reason for the anger. A judge, rather than outwardly displaying anger or some other inappropriate emotion, should address the foundation of the problem and deal with that. Anger won't make the problem go away, but I like to believe that if the problem is addressed by a judge in a respectful fashion, there is a heightened likelihood that the problem will be addressed and not reoccur. That said, setting clear expectations and expecting them to be met is appropriate for judges.

28. How much money have you spent on your campaign? If the amount is over \$100, has that been reported to the House and Senate Ethics Committees?

To date, other than postage involved in the receipt and ultimate submission of this application, no funds have been expended.

29. If you are a sitting judge, have you used judicial letterhead or the services of your staff while campaigning for this office?

n/a

30. Have you sought or received the pledge of any legislator prior to this date?

I have not sought nor received the pledge of any legislator prior to this date.

31. Have you sought or been offered a conditional pledge of support by any legislator pending the outcome of your screening?

No.

32. Have you asked any third parties to contact members of the General Assembly on your behalf before the final and formal screening report has been released? Are you aware of any friends or colleagues contacting members of the General Assembly on your behalf?

No.

33. Have you contacted any members of the Judicial Merit Selection Commission?

No.

34. Are you familiar with the 48-hour rule, which prohibits a candidate from seeking pledges for 48 hours after the draft report has been submitted?

Yes.

I HEREBY CERTIFY THAT THE ANSWERS TO THE ABOVE QUESTIONS ARE TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE.

s/ Sean F. Keefer

Sworn to before me this 4 day of August, 2014.

Wendy J. Keefer

(Print name)

Notary Public for South Carolina

My commission expires: December 15, 2020